



## Overview of NAGPRA Civil Penalties Procedures

### **What are the civil penalties provisions of the Native American Graves Protection and Repatriation Act (NAGPRA)?**

Section 9 of NAGPRA (25 USC 3007) authorizes the Secretary of the Interior to assess a civil penalty against any museum that fails to comply with the requirements of the Act.

### **Who can make an allegation of failure to comply with NAGPRA?**

Under the NAGPRA civil penalties process, anyone can file an allegation that a museum has failed to comply with NAGPRA.

### **Complainant**

#### **How do I file a NAGPRA civil penalties allegation?**

You must file a written allegation that should include the following information –

- the provision(s) of NAGPRA with which the museum has failed to comply;
- facts that support your allegation; and
- evidence that the museum possessed or controlled Native American human remains, funerary objects, sacred objects, or objects of cultural patrimony during the time period of the alleged failure to comply; received Federal funds in aid after November 16, 1990; and failed to comply with specific provisions of NAGPRA.

Send your allegation to the Civil Penalties Officer, addressed as follows:

#### Via U.S. Mail:

Ms. Ann Hitchcock  
NAGPRA Civil Penalties Officer  
National Park Service  
1849 C Street NW (2251)  
Washington, DC 20240

**OR**

#### Via commercial delivery service:

Ms. Ann Hitchcock  
NAGPRA Civil Penalties Officer  
National Park Service  
1201 Eye Street NW (8<sup>th</sup> floor)  
Washington, DC 20005

### **Who will consider my allegation?**

The Civil Penalties Officer makes decisions regarding civil penalties. The National Park Service Chief Curator serves as Civil Penalties Officer. The Civil Penalties Officer is assisted by the National Park Service office of the Chief Ranger in conducting civil penalties investigations. National NAGPRA program officer C. Timothy McKeown provides administrative support to the Civil Penalties Officer.

### **What will the Civil Penalties Officer do after my allegation is received?**

The Civil Penalties Officer will consider the allegation and conduct an initial evaluation. The evaluation will consider whether or not the allegation includes the required information and warrants further investigation. The Civil Penalties Officer will also reply in writing to the complainant, acknowledging receipt of the allegation, indicating whether or not the allegation will be referred for further investigation. If the allegation is not referred for further investigation, the complainant may resubmit the allegation with new or additional information.

### **Museum**

#### **How will a museum know that it is the subject of a civil penalties allegation?**

Letters of reply from the Civil Penalties Officer to complainants indicating whether or not the allegation will be referred for further investigation are copied to the museum that is the subject of the allegation.

**How are allegations investigated?**

The Civil Penalties Officer forwards allegations that warrant investigation to the National Park Service Chief Ranger. The office of the Chief Ranger is responsible for investigating civil penalties allegations and for reporting the results of investigations to the Civil Penalties Officer.

**What happens after the investigation is complete?**

Based on the results of the investigation, the Civil Penalties Officer will determine if the museum has failed to comply with NAGPRA. If the Civil Penalties Officer determines that a violation has not occurred, the Civil Penalties Officer will send a letter to the complainant, with a copy to the museum. If the Civil Penalties Officer determines that a violation has occurred, the process moves into the notification and penalty assessment phase.

**Who notifies a museum if it is found to be out of compliance?**

If the Civil Penalties Officer determines that a violation has occurred, the Civil Penalties Officer will send a notice of failure to comply to the museum.

**What options are available to a museum that receives a notice of failure to comply?**

A museum that receives a notice of failure to comply has three choices –

- 1) The museum may request informal discussions. The request for informal discussions should be made to the Civil Penalties Officer in writing, and must be received by the Civil Penalties Officer within 45 days of the museum's receipt of the notice of failure to comply.
- 2) The museum may request an administrative hearing. The Administrative Law Judge who presides over the hearing may remand the matter to the National Park Service for further action.
- 3) The museum may take no action and await the notice of assessment of a civil penalty.

**Who notifies a museum if a civil penalty will be assessed?**

The Civil Penalties Officer determines if a penalty will be assessed after completing informal discussions, when the period for requesting a hearing expires, or when an Administrative Law Judge remands the allegation to the National Park Service following an administrative hearing. If a penalty will be assessed, the Civil Penalties Officer determines the penalty amount and sends the notice of assessment to the museum.

**What options are available to a museum that is assessed a civil penalty?**

A museum that receives a notice of assessment has four choices –

- 1) The museum may accept the proposed penalty and pay the penalty as assessed.
- 2) The museum may request informal discussions with the Civil Penalties Officer as described above.
- 3) The museum may file a petition for relief to the Civil Penalties Officer.
- 4) The museum may request an administrative hearing. The Administrative Law Judge who presides over the hearing may remand the matter to the National Park Service for further action.